

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JOHNNY THOMAS,)	CASE NO. 8:06CV511
)	
Plaintiff,)	
)	
V.)	ORDER OF DISMISSAL
)	
HY-VEE, Inc.,)	
)	
Defendant.)	

This matter is before the Court on the Defendant's Motion to Dismiss for Lack of Prosecution. The motion sets forth good cause for dismissal. The primary difficulties in the defense of this case stem from the Plaintiff's failure to communicate with his counsel and the Plaintiff's failure to appear for deposition. These failures are fully documented in the record. Plaintiff Johnny Thomas has done nothing since being put on notice of the risk of dismissal to progress this matter.

The Court finds that there are no extraordinary circumstances that would warrant the imposition of costs or an award of attorney's fees against Thomas. Accordingly,

IT IS ORDERED:

1. The Defendant's Motion to Dismiss for Lack of Prosecution (Filing No. 40) is granted;
2. The Complaint is dismissed with prejudice; and
3. The parties shall pay their own costs and attorney's fees.

DATED this 30th day of May, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge